

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA-1931-2019 (O&M)
Date of Decision: January 14, 2020

Dharmender Singh

... Appellant

Versus

State of Haryana and another

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Roopak Bansal, Advocate,
for the appellant.**

***Ravi Shanker Jha, Chief Justice,*(Oral)**

CM-4398-LPA-2019

For the reasons mentioned in the application, delay of 01 day in
filing the appeal is condoned.

Application stands disposed of.

LPA-1931-2019(O&M)

This Letters Patent Appeal has been filed by the appellant-petitioner being aggrieved by an order dated 16.07.2019 passed in CWP-18486-2017, dismissing the petition filed by the appellant-petitioner challenging corrigendum dated 30.11.2016 whereby the reservation for Economically Backward Persons in General Category (for short "EBPG Category") has been fixed.

It is submitted by the learned counsel appearing for the appellant that the appellant, who had applied for appointment as General Category

Freedom Fighter candidate, is entitled to be considered for appointment in view of document that has been filed by the appellant vide CM-4400-LPA-2019 (Annexure A/1) along with this appeal which provides that the candidates belonging to the Backward Class are not eligible who seek to fill up form under Freedom Fighters category.

Learned Single Judge has dismissed the petition filed by the appellant by taking into consideration the facts placed by the respondent-University that 44 posts were reserved for EBPB Category and only 21 candidates were qualified for interview and 20 were selected against 44 and the remaining posts thereafter filled up by the General category candidates. Learned Single Judge rejected the petition by taking note of the fact that appellant had failed to secure the necessary cut off marks in the entire selection.

We have heard learned counsel for the appellant at length and perused the impugned order passed by the learned Single Judge.

From a perusal of the record, we do not find any illegality or perversity in the findings recorded by the learned Single Judge nor has anything been placed before us to indicate that the findings recorded therein are contrary to the facts on record.

It is also observed that the appellant has placed reliance on circular of Government of Haryana dated 26.11.1985 (Annexure A/1) relating to appointments and reservation for Freedom Fighters category. The said document does not render any assistance to the cause of the appellant as the same was neither placed before the learned Single Judge nor is the part of the petition as no averments were raised in that regard before the learned Single

Judge. Quite apart from the above and from a perusal of the said circular, it is further evident that it was issued in the year 1985 and has no reference to the EBPG and relates to providing for 2% reservation to the Freedom Fighters subject to the condition that the posts reserved for ex-servicemen and backward class remain unfilled beyond 2 % to the quota reserved for the said categories.

We are also of the considered opinion that the appellant has failed to secure the necessary cut off marks and as there is no averment in the petition that more than 2 % seats either of the Ex-servicemen category or the Backward Class remained vacant and therefore the appellant should have been considered for appointment by invoking 2% reservation for freedom fighter category, the said averment made by the appellant in the present appeal for the first time without any factual foundation being made in the petition or in the appeal, cannot be considered by this Court at this stage.

In the circumstances, we do not find any perversity or illegality in the order passed by the learned Single Judge warranting interference in it.

The appeal filed by the appellant being meritless is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

January 14, 2020
vkd

(Arun Palli)
Judge

Whether speaking / reasoned : Yes / No
Whether reportable : Yes / No